

SECRET

April 24, 1969

EYES ONLY

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Henry A. Kissinger /s/

SUBJECT: Congressional Request for Information on  
Our Reconnaissance Operations

David Packard called me yesterday to say that the Pike Subcommittee of the House Armed Services Committee has requested detailed information on our reconnaissance activities. Packard said that the Subcommittee had started out by looking into the PUEBLO case, but has now broadened its inquiry to include the EC-121 operation. General Wheeler has been called to testify in open session next Friday; now DOD has received a request for a copy of their reconnaissance schedule book, JCS directives describing how reconnaissance programs are reviewed, etc.

Packard believes that, while we want to cooperate as much as we can with the Subcommittee, this request goes too far. He believes that this is a case deserving the use of Executive privilege. I agree, since these are highly sensitive subjects and -- if we were to release the information -- could open a real Pandora's box of future trouble.

In order to get this information into the proper channels, in accordance with the President's memorandum of March 24 (Tab A), I pass this information -- and my recommendation that Executive privilege be invoked -- on to you for your consideration.

Attachment

Eyes only copies to: Deputy Secretary Packard  
John Ehrlichman

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ON-FILE NSC RELEASE  
INSTRUCTIONS APPLY

LSE:anz

THE WHITE HOUSE

WASHINGTON

March 24, 1969

MEMORANDUM FOR THE HEADS OF

EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: ESTABLISHING A PROCEDURE TO GOVERN COMPLIANCE  
WITH CONGRESSIONAL DEMANDS FOR INFORMATION

The policy of this Administration is to comply to the fullest extent possible with Congressional requests for information. While the Executive branch has the responsibility of withholding certain information the disclosure of which would be incompatible with the public interest, this Administration will invoke this authority only in the most compelling circumstances and after a rigorous inquiry into the actual need for its exercise. For those reasons Executive privilege will not be used without specific Presidential approval. The following procedural steps will govern the invocation of Executive privilege:

1. If the head of an Executive department or agency (hereafter referred to as "department head") believes that compliance with a request for information from a Congressional agency addressed to his department or agency raises a substantial question as to the need for invoking Executive privilege, he should consult the Attorney General through the Office of Legal Counsel of the Department of Justice.
2. If the department head and the Attorney General agree, in accordance with the policy set forth above, that Executive privilege shall not be invoked in the circumstances, the information shall be released to the inquiring Congressional agency.
3. If the department head and the Attorney General agree that the circumstances justify the invocation of Executive privilege, or if either of them believes that the issue should be submitted to the President, the matter shall be transmitted to the Counsel to the President, who will advise the department head of the President's decision.

4. In the event of a Presidential decision to invoke Executive privilege, the department head should advise the Congressional agency that the claim of Executive privilege is being made with the specific approval of the President.
5. Pending a final determination of the matter, the department head should request the Congressional agency to hold its demand for the information in abeyance until such determination can be made. Care shall be taken to indicate that the purpose of this request is to protect the privilege pending the determination, and that the request does not constitute a claim of privilege.

*Richard Nixon*